

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOSHUA TROUSER, JAZLEY
TROUSER, and JONIAS TROUSER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CARNELL TROUSER,

Respondent-Appellant.

UNPUBLISHED

May 24, 2005

No. 257532

Genesee Circuit Court

Family Division

LC No. 02-115354-NA

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

The trial court did not clearly err in determining that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). Respondent acknowledges that the evidence presented demonstrated that he did not completely comply with four of the ten services required under the agency agreement—treatment for his substance abuse problem, drug screens, employment, and visitation. However, he argues that the trial court erred in finding that he had lost his home and that he had not provided timely support. After reviewing the testimony of the foster care worker, the only witness at the termination trial, we are not left with a firm conviction that the trial court erred in finding that respondent had lost his home because of failure to pay taxes. However, even if the trial court did err, sufficient evidence was presented to warrant termination. The conditions that led to adjudication were the conditions of respondent's home, his alcohol and drug abuse, and his poor parenting skills. The foster care worker testified that that, while respondent completed inpatient substance abuse programs, he failed to complete an outpatient program and also failed to complete random drug screens. Although respondent argues that no evidence was presented that he would not have continued to comply with services if they had been offered and that no efforts were made to help him because the foster care worker was biased against him, we find that services were offered to respondent to correct his substance abuse, but respondent failed to take full advantage of these services. Thus, respondent's argument fails. The evidence also does not establish that termination of

respondent's parental rights is clearly not in the children's best interests, MCL 712A.19b(5), and thus the trial court did not clearly err in terminating his parental rights.

Finally, respondent contends that he was denied effective assistance of counsel. At the termination trial, petitioner waived the opening statement and proceeded in calling the foster care worker as its only witness. Respondent's counsel did not cross-examine this witness or call any witnesses on respondent's behalf. Both petitioner's attorney and the attorney for the minor children gave very brief closing statements, and respondent's attorney waived a closing statement. Respondent argues that the above actions by his counsel constitute ineffective assistance of counsel. However, even if respondent could establish that his attorney's performance was objectively unreasonable, respondent has failed to show how he was prejudiced by the representation. *People v Pickens*, 446 Mich 298, 309; 521 NW2d 797 (1994). Respondent does not cite a single witness or piece of evidence that counsel could have introduced to counter the foster care worker's testimony. Thus, respondent's claim of ineffective assistance of counsel fails.

We affirm.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter